

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Access Charge Reform)	CC Docket No. 96-262
)	
Price Cap Performance Review for Local Exchange Carriers)	CC Docket No. 94-1
)	
Transport Rate Structure and Pricing)	CC Docket No. 91-213
)	
End User Common Line Charges)	CC Docket No. 95-72

**REPLY COMMENTS OF WORLDCOM, INC.
TO OPPOSITIONS TO ITS
PETITION FOR RECONSIDERATION**

Pursuant to Section 1.429 of the Commission's rules, 47 C.F.R. §1.429, WorldCom, Inc. ("WorldCom") submits these reply comments to oppositions to WorldCom's petition for reconsideration of the First Report and Order ("Order") in the above captioned proceedings, FCC 96-158 (released May 16, 1997), 62 FR 31868 (published June 11, 1997).

I. INTRODUCTION

In its petition for reconsideration, WorldCom noted that it supports the general thrust of the Order and the use of a primarily competition-driven approach to driving access charges toward costs, with a prescriptive backstop. It is important to note, however, that access charge reform, whether market-based or prescriptive, will not by itself provide any

benefit to consumers. To fulfill Commission's promise that restructuring access charges will result in lower long distance rates for the American consumer,¹ there must be market pressures in the long distance industry to translate lower access rates into lower long distance rates. If non-cost-based access charge rates or structures result in one long distance carrier receiving a disproportionate share of the access reductions, long distance competition will be undermined and the market pressures necessary to push down long distance rates will not exist -- and consumers will not receive the promised benefits.

The Commission's treatment of tandem-switched transport provides just such a disproportionate access reduction -- without economic basis and in violation of the Commission's long standing price cap costing methodology -- to the largest of the long distance carriers at the expense of smaller carriers. For that reason, WorldCom urged the Commission to reconsider certain aspects the Order dealing with tandem-switched transport. Specifically, WorldCom asked the Commission to reconsider 1) the setting of the tandem switching rate based on fully distributed costs; 2) the use of historical minutes of use to derive common transport transmission rates; 3) the elimination of the unitary rate structure; and 4) the imposition of multiplexer charges solely on tandem-switched transport.

Each of these decisions will significantly increase the cost of using tandem-switched transport and, correspondingly, reduce the Transport Interconnect Charge ("TIC"). Thus, although all long distance carriers will benefit from a lower TIC, the reduction will be paid for largely by the users of tandem-switched transport. Since AT&T uses tandem-switched transport for a significantly smaller percentage of its traffic, it will realize a

¹ Order at ¶16.

substantial access transport cost reduction while carriers that use tandem-switched transport for a higher percentage of their traffic will receive an access transport cost increase. Because most other carriers will have an access transport cost increase, there will be significantly less market pressure to force AT&T to pass its savings on to consumers in the form of lower long distance rates. Instead, the Commission's treatment of tandem-switched transport results in a huge -- and unjustified -- windfall for AT&T. Reconsidering these aspects of tandem-switched transport in the manner suggested by WorldCom and others² will enable market forces to translate access reductions into long distance rate reductions that consumers can enjoy.³

If the Commission decides to retain the new rate structure, WorldCom also urged the Commission to clarify that the waiver of non-recurring reconfiguration charges ("NRCs") applies when ordering additional dedicated trunks, shifting between trunk capacity, or moving circuits to competitive access provider. WorldCom also asked the Commission to reconsider its decision on the recovery of Signalling System 7 ("SS7") costs.

In the comments below, WorldCom replies to those parties that filed in opposition to its petition for reconsideration.

² See, e.g., CompTel Petition.

³ Although WorldCom has advocated immediate elimination of the TIC and continues to believe that rapid elimination is appropriate, it is worth noting that the changes recommended by WorldCom do not require substantial changes to the Commission's gradual elimination of the TIC. WorldCom estimates that it will take an average of only eight additional months per LEC to eliminate the revenue added to the TIC under WorldCom's proposals. Cost-based tandem-switched transport rates and structure will be well worth this slightly longer phase-out of the TIC.

II. THE TANDEM-SWITCHED TRANSPORT PRICING RULES FLY IN THE FACE OF THE COMMISSION'S ESTABLISHED COST-BASED PRICING POLICIES

A. The Tandem Switching Rate Should Not be Set Based on Fully Distributed Cost

WorldCom's petition for reconsideration pointed out that the Order will lead to "ILECs' recovering a dramatically higher proportion of overhead loadings from tandem switching than from any other interstate access service."⁴ Without a reasoned justification, this use of discredited fully distributed cost-based ratemaking violates the D.C. Circuit's mandate that direct-trunked transport, tandem switching and other elements be priced based in a consistent cost-based manner. The petition also explained that the Order's approach to setting tandem switching rates violates the Commission's current ratemaking system by not applying the price cap methodology for new services to tandem switching. As a result, tandem switching is the only new price cap ILEC rate element since the inception of price cap regulation that the Commission has ever established based on fully distributed cost. The Order offers no justification for this departure from the Commission's current ratemaking practices.

No party responds directly to these arguments. AT&T, the chief beneficiary of the Commission's transport plan, merely states that the Commission properly applied its rules regarding the allocation of overhead.⁵ GTE, pretending to be a champion of competition, suggests that the higher tandem switching rates will lead to more efficient competition and, without explanation, states that higher rates are a by-product of moving to a

⁴ WorldCom Petition at 4.

⁵ AT&T Opposition at 9.

cost-based system.⁶ Teleport Communications Group ("TCG") protests that pricing based on incremental cost would "burden other services."⁷

None of these responses justifies the extraordinary overhead loading that will be applied to the users of tandem switched transport nor do they explain the Commission's failure to apply its own price cap costing methodology to the tandem switching rate element. The Commission should reconsider the manner in which it set the tandem switching rate to be consistent with the overhead loadings of other price cap services and with its own price cap rules.

B. Use of Historical Minutes of Use to Derive Common Transport Transmission Rates Violates Price Cap Policies and Creates Incentives for Inefficiency

WorldCom urged the Commission to reconsider its decision to permit ILECs to set the per minute rate for common transport transmission based on historical minutes of use rather than an assumed 9000 minutes of use as under the current interim structure.⁸ WorldCom urged reconsideration on this point because the Order's approach creates incentives for inefficiency. In addition, common transport is used primarily for local traffic, where the ILEC may have its own independent reasons for deploying a high number of trunks relative to the number of minutes. At a minimum, WorldCom urged the Commission to clarify that the minutes to be counted are the total number of minutes traversing the common circuits, not just the interstate access minutes.

⁶ GTE Opposition and Comments at 8.

⁷ TCG Opposition at 6.

⁸ WorldCom Petition at 8.

Only the United States Telephone Association ("USTA"), GTE and AT&T opposed the request for reconsideration. USTA and GTE merely restate that the current figure is based on data collected almost fifteen years ago and that some incumbents indicate that their actual traffic level may be as low as 4,000 minutes of use per month per voice grade equivalent circuit.⁹ AT&T contends that the old rule was merely for administrative convenience and is no longer needed.¹⁰

What USTA and GTE fail to appreciate is that the traffic levels on common transport trunks, which carry interstate and intrastate long distance traffic as well as local traffic, is completely within the control of the local exchange carrier. If an ILEC has only 4000 minutes of use on a circuit, it indicates that the ILEC has too many circuits between the end office and the tandem (or perhaps that the ILEC should not have a tandem at all). Reducing the number of circuits will increase the minutes of use of the remaining circuits. The ILEC may have its own reasons for having a large number of circuits -- these circuits carry much more than just interstate access. The number of circuits, and thus the number of minutes per circuit, is entirely within the control of the ILEC. To burden the users of interstate tandem switched transport with the inefficient networking decisions of the ILEC departs from the Commission's cost-causation policies. Far from administrative convenience as suggested by AT&T, the 9000 minutes of use was initially adopted as a compromise engineering constraint that recognized that the ILECs control the network and the traffic

⁹ USTA Comments at 7, GTE Opposition and Comments at 5.

¹⁰ AT&T Opposition at fn 13.

loading of circuits.¹¹ The Commission should reconsider its decision to replace the assumed 9000 minutes of use with historical minutes of use.

III. The Rate Structure Adopted for Tandem-Switched Transport is Not Cost-based and Is Unreasonably Discriminatory

In its petition for reconsideration, WorldCom demonstrated that the cost structures of interoffice dedicated transport and interoffice common transport are identical in most respects.¹² Interexchange carriers using either form of transport simply want the ILEC to deliver traffic from a serving wire center to an end office -- without caring how the ILEC transmits that traffic through its own network. In fact, most frequently both forms of transport follow the same physical path between a serving wire center and the end office -- that is, both transit the tandem switch. Both are muxed down to DS-1 speeds, the common transport is switched by the tandem (for which a separate charge is paid), and both are muxed up to DS-3 speed for transmission to the end office.

The unitary pricing structure dealt with this identical routing by allowing interexchange carriers to be indifferent to the actual physical routing by the ILEC. The rates for both were based on the airline mileage between the serving wire center and the end office. This is as it should be; the physical routing of traffic in the ILEC network, including the placement and number of tandems, is wholly within the control of the ILEC, not the

¹¹ The alternative would be for the Commission to field complaints from interexchange carriers every time an ILEC opens a new common circuit because the new circuit will diminish the per circuit minutes of use and thus effect the interexchange carriers' costs. The assumed 9000 minutes of use avoided disputes of this nature.

¹² WorldCom Petition at 11.

interexchange carrier. No interexchange carrier or group of carriers was advantaged or burdened by ILEC networking decisions that are beyond the interexchange carriers control.

The elegance of the unitary rate structure was cast aside when the Commission adopted the three-part rate structure. Now the users of common transport pay rates based on the airline mileage between the serving wire center and the tandem and then between the tandem and the end office -- distances that are solely in the control of the ILEC.¹³ In contrast, the users of dedicated transport simply pay rates based on the mileage between the serving wire center and the end office, even though their traffic usually follows the same physical routing through the ILEC network. The disparate pricing methodology created by the three-part rate structure is patently discriminatory against the users of common transport.

AT&T, GTE, and USTA all support elimination of the unitary rate structure by repeating the Order's rationale that users of common transport obligate the ILEC to route to the tandem and should therefore pay to go there.¹⁴ But this argument ignores the reality that users of common transport are asking the ILEC to route traffic from the serving wire center to the end office on a usage basis without regard for where and how any intermediate switching takes place. It is for the ILEC to determine how to most efficiently route traffic within its own network. The unitary rate structure does not allow these ILEC decisions to have a discriminatory impact on the users of common transport. Under the three-part rate

¹³ ILECs will occasionally close tandems, move tandems, or open new tandems. In addition, they will frequently change the end offices that subtend a tandem. These are ILEC networking decisions, often made solely based on the ILECs' local traffic needs, to which the users of common transport should be indifferent. Pursuant to the unitary rate structure, they could be indifferent; with the three-part rate structure, these decisions will change, sometimes dramatically, the access costs of the users of common transport.

¹⁴ AT&T Opposition at 5; GTE Opposition and Comments at 3; USTA Comments at 6.

structure, however, the users of common transport are forced to bear the burden of these ILEC networking decisions; the users of dedicated transport, whose traffic follows the same physical routing, do not. To remove this discrimination, the Commission can either reinstate the unitary rate structure or require the users of dedicated transport to pay based on the physical routing of their traffic as well.¹⁵ WorldCom recommends the former.

No party responded directly to WorldCom's request that the Commission require the ILECs to recover multiplexing costs consistently from users of both dedicated interoffice transport and tandem-switched transport, either through separately identified charges or through charges bundled together with transmission rates.¹⁶ GTE simply urged the Commission "to grant ILECs the flexibility to establish multiplexer rate elements in line with market pressures and business plans."¹⁷ In other words, GTE is seeking a license to discriminate. The Commission should grant WorldCom's request for reconsideration.

Finally, no party opposes WorldCom's request that the Commission clarify that non-recurring charges will be waived for interexchange carriers that order additional dedicated transport trunks; shift between voice grade, DS1 and DS3 circuits; or shift traffic from ILEC networks to the networks of competitive access providers.¹⁸

¹⁵ An approach suggested by GTE might be worthy of consideration. Rather than requiring ILECs to abandon the unitary rate structure, the Commission could allow the ILECs the option to offer either the unitary rate structure, the three-part rate structure or both. GTE Opposition and Comments at 6.

¹⁶ WorldCom Petition at 18.

¹⁷ GTE Opposition and Comments at 10.

¹⁸ WorldCom Petition at 19.

IV. THE COMMISSION SHOULD RECONSIDER THE ORDER'S DECISION ON SIGNALLING SYSTEM 7 COSTS

WorldCom asked the Commission to reconsider its decision to allow ILECs to establish new charges to IXC's to recover the costs of SS7 network facilities that are not dedicated to a particular interexchange carrier.¹⁹ USTA responds that ILECs are entitled to recover these costs from their users.²⁰ This response misses the point that ILECs benefit from interexchange carrier SS7 networks in the same manner that interexchange carriers benefit from ILEC SS7 networks, yet IXC's do not recover their SS7 costs from the ILECs and that a bill and keep arrangement for the exchange of SS7 would be appropriate. The Commission should reconsider this aspect of its decision.

V. CONCLUSION

For the reasons stated above, WorldCom urges the Commission to act favorably on its petition for reconsideration.

September 3, 1997



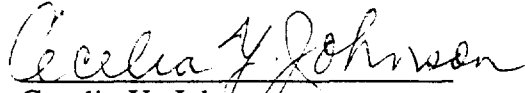
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¹⁹ WorldCom Petition at 21.

²⁰ USTA Comments at 8.

CERTIFICATE OF SERVICE

I, Cecelia Y. Johnson, hereby certify that on this 3rd day of September, 1997, true copies of the foregoing "REPLY COMMENTS OF WORLD COM, INC. TO OPPOSITIONS TO ITS PETITION FOR RECONSIDERATION" were delivered to each of the parties listed below.


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